

## REMARKS

In the above-identified Office Action, the Examiner identified a restriction election requirement. Applicant elects Group I-C with traverse to proceed with prosecution on the merits.

MPEP § 803 provides in relevant part:

**There are two criteria for a proper requirement for restriction between patentably distinct inventions:**

**(A) The inventions must be independent...; and**

**(B) There must be a serious burden on the examiner if restriction is required....**

Applicant respectfully asserts that at the very least the Examiner has not shown a serious burden is present as required by MPEP § 803. Applicant notes that Group I-C is classified in class 62, subclass 457.7 and further notes that Group I-D is also classified in class 62, subclass 457.7. As both of these groups are within the same subclass, and thus require the same subclasses to be searched, Applicant respectfully sets forth that there is no burden on the Examiner as required by MPEP § 803. Thus, restriction with respect to at these groups is improper and applicant requests that restriction be withdrawn with respect to groups I-C and I-D.

Moreover, Applicant notes that Groups I-A and I-B have been classified in class 62, subclass 457.4 while, as noted above, Groups I-C and I-D have been classified in class 62, subclass 457.7. Applicant notes that these subclasses were searched together in a reference submitted with an Information Disclosure Statement submitted by the Applicant on May 2, 2002. This reference, U.S. Des. 405,650 to Meier, is attached as Appendix A and clearly shows that the Field of Search included class 62 and both subclasses 457.4 and 457.7. Thus, Applicant respectfully asserts that there is no burden on the Examiner to search both of these subclasses, as these subclasses were able to be searched in a prior reference. Therefore, Applicant respectfully requests that the restriction with respect to subclasses I-A, I-B, I-C and I-D be withdrawn.<sup>1</sup>

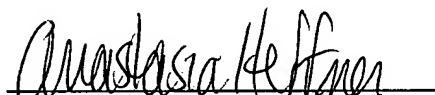
---

<sup>1</sup> Applicant also notes that in a corresponding PCT application, application no. PCT/US02/04029, the Examiner in that case was able to search all of the claims together without issuing any sort of restriction. A copy of the Preliminary Examination report in that case is attached as Appendix B.

### SUMMARY

In response to the Restriction Election Requirement, Applicant elects Group I-C to proceed with prosecution on the merits. For the reasons cited above, however, Applicant respectfully asserts that the restriction should be withdrawn with respect to Groups I-A, I-B, I-C and I-D. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in cursive script, reading "Anastasia Heffner", written over a horizontal line.

Anastasia Heffner

Registration No. 47,638

Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

## **APPENDIX A**



US00D405650S

**United States Patent** [19]  
**Meier**

[11] **Patent Number:** **Des. 405,650**

[45] **Date of Patent:** **\*\*Feb. 16, 1999**

[54] **SEALING CAN COOLER**

[76] **Inventor:** William M Meier, 5598 Whipperwill  
La., Hillsboro, Mo. 63050

[\*\*] **Term:** 14 Years

[21] **Appl. No.:** 86,457

[22] **Filed:** Apr. 14, 1998

[51] **LOC (6) Cl.** ..... 07-06

[52] **U.S. Cl.** ..... D7/608

[58] **Field of Search** ..... D7/605, 608, 510,  
D7/511; 220/737, 739, 740, 411, 902; 62/457.1,  
457.2, 457.3, 457.4, 457.5, 457.7, 371

[56] **References Cited**

**U.S. PATENT DOCUMENTS**

D. 398,193	9/1998	Sanchez	.....	D7/608
3,565,277	2/1971	Sewitch	.....	D7/608 X
4,910,977	3/1990	Hilton	.....	62/457.5

*Primary Examiner*—Terry A. Wallace

*Attorney, Agent, or Firm*—Kevin L. Klug

[57] **CLAIM**

The ornamental design for a sealing can cooler, as shown and described.

**DESCRIPTION**

FIG. 1 is a front elevational view of a sealing can cooler with the sealing lid attached which is symmetrical with a rear elevational view, showing my novel design;

FIG. 2 is a left side elevational view thereof;

FIG. 3 is a right side elevational view thereof;

FIG. 4 is a top side plan view thereof;

FIG. 5 is bottom side plan view thereof;

FIG. 6 is a front elevational view of a sealing can cooler with the sealing lid removed and shown, which is symmetrical with a rear elevational view, showing my novel design;

FIG. 7 is a left side elevational view thereof;

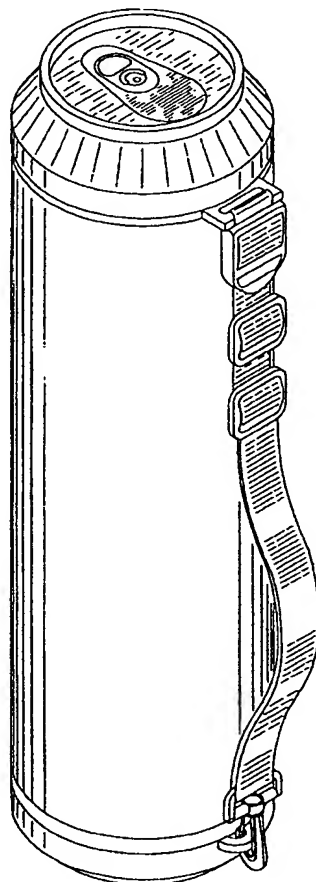
FIG. 8 is a right side elevational view thereof;

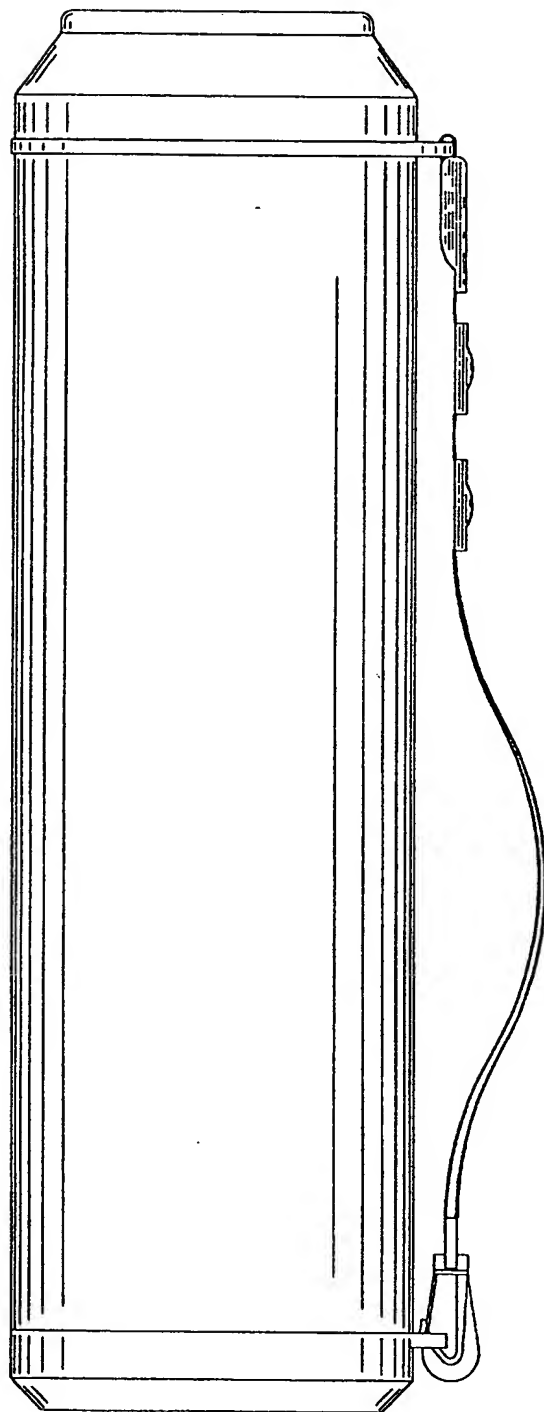
FIG. 9 is a top side plan view of a sealing can cooler with the sealing lid removed, showing my novel design thereof;

FIG. 10 is a top, front, and right side perspective view of a sealing can cooler with the sealing lid attached showing my novel design; and,

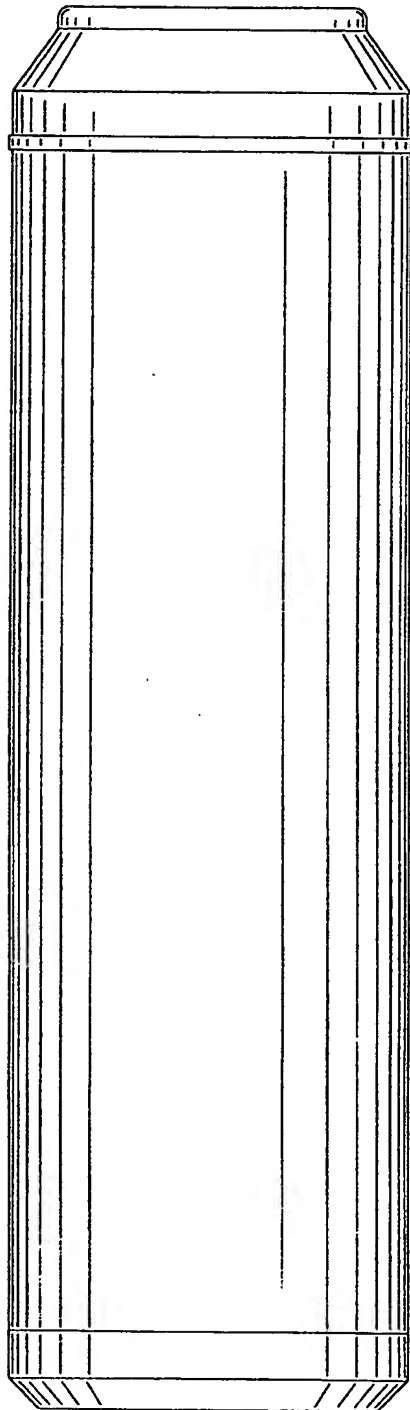
FIG. 11 is a top, front, and right side perspective view of a sealing can cooler with the sealing lid removed showing my novel design.

**1 Claim, 11 Drawing Sheets**

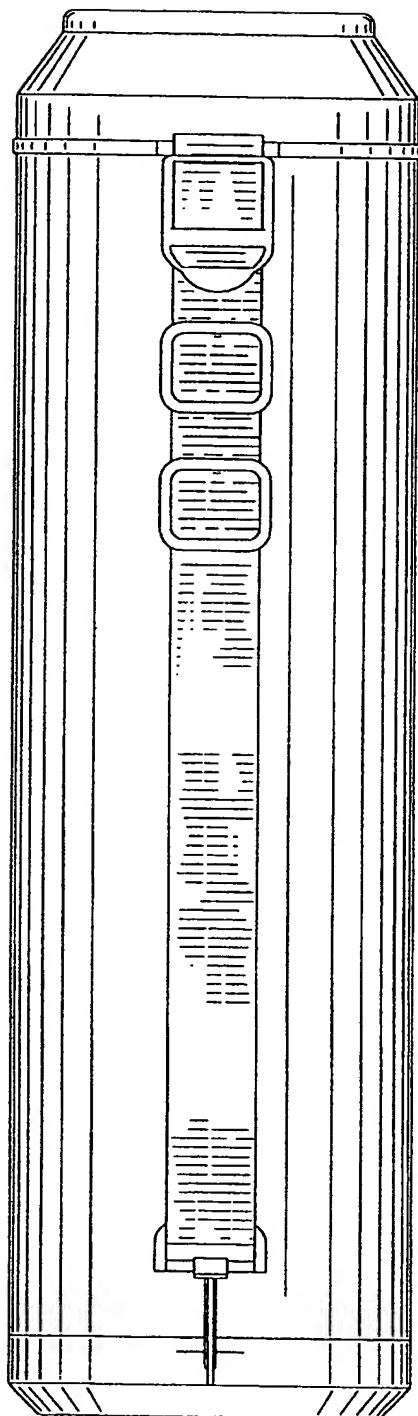




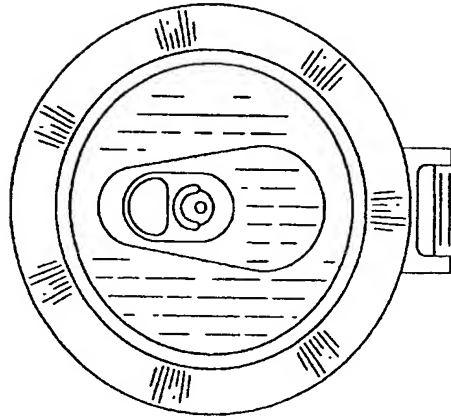
*figure 1*



*figure 2*

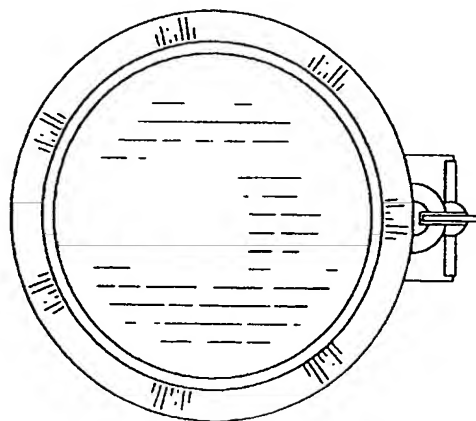


*figure 3*

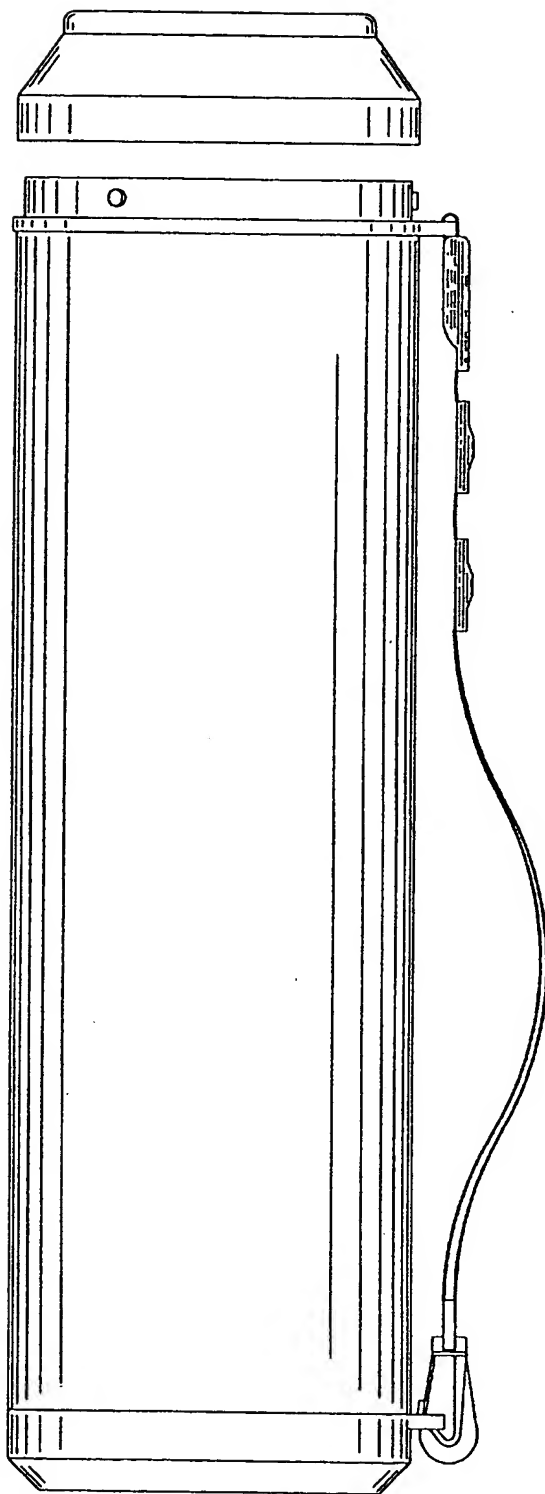


*figure 4*

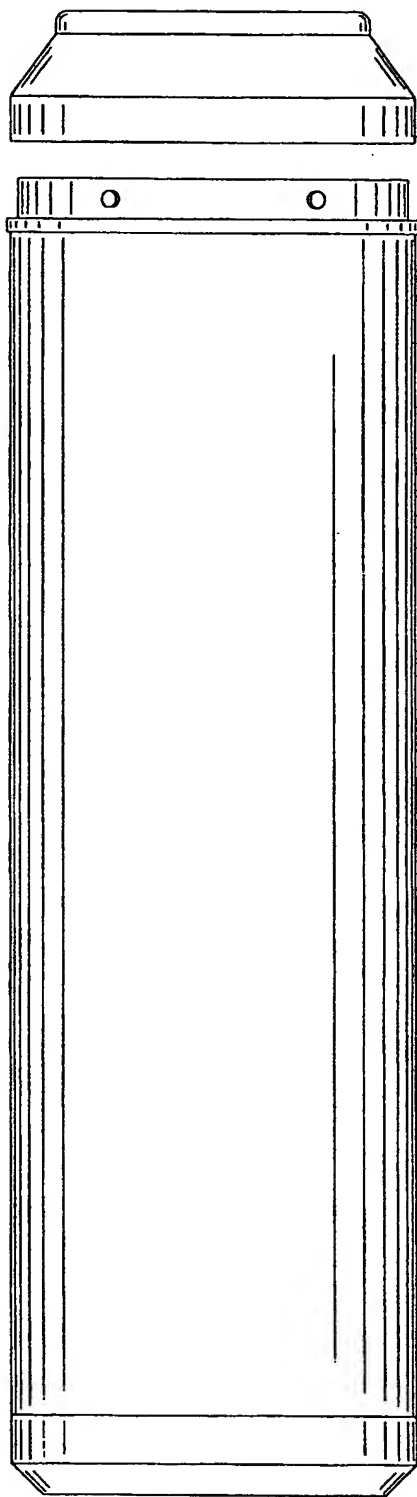




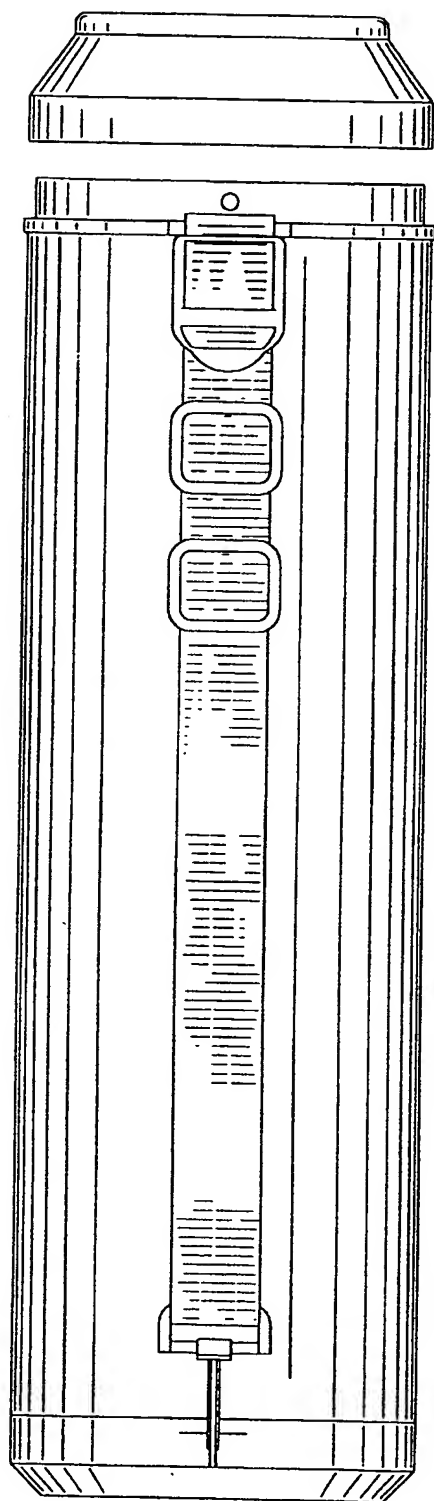
*figure 5*



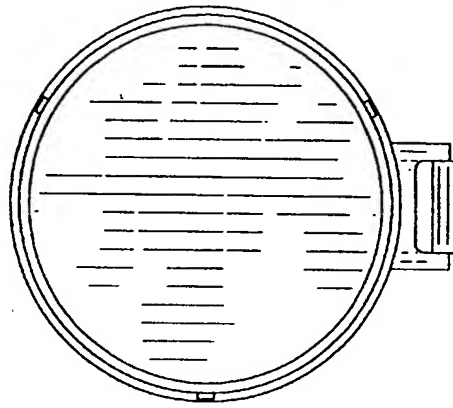
*figure 6*



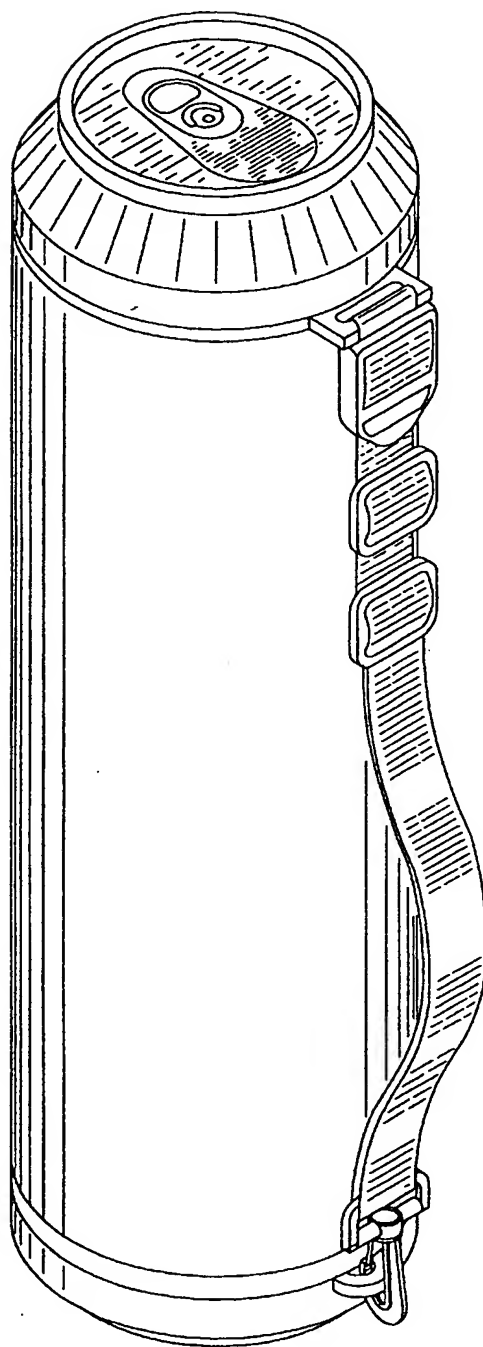
*figure 7*



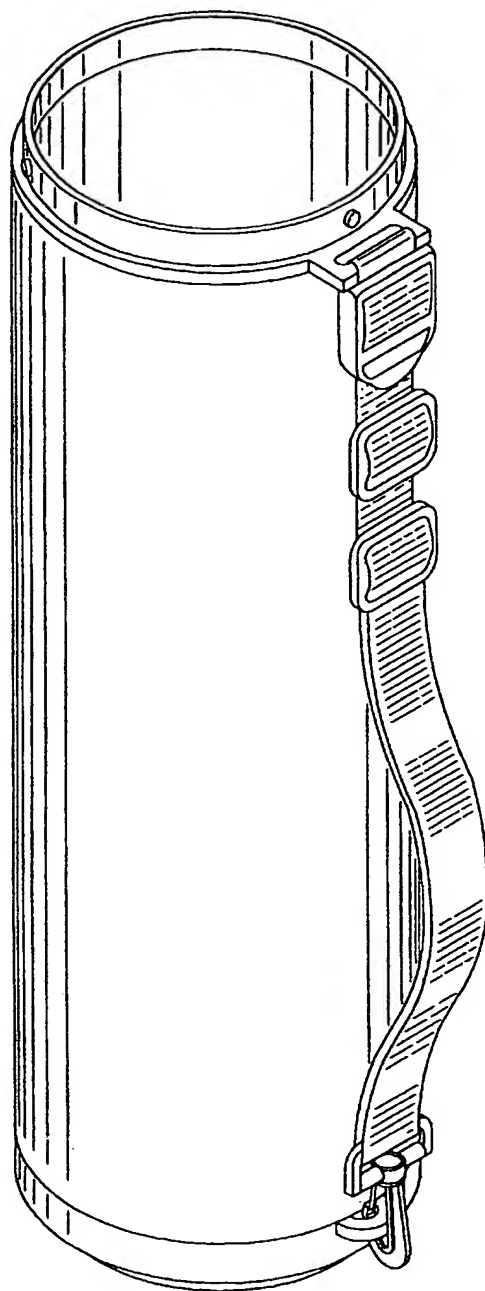
*figure 8*



*figure 9*



*figure 10*



*figure 11*

## **APPENDIX B**



# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 10121/5		<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US02/04029	International filing date (day/month/year) 11 February 2002 (11.02.2002)	Priority date (day/month/year) 12 February 2001 (12.02.2001)	
International Patent Classification (IPC) or national classification and IPC IPC(7): F25D 3/08 and US Cl.: 62/457.2, 81, 428, 434			
Applicant MOLFESE, PHILIP			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>0</u> sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of report with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 11 September 2002 (11.09.2002)		Date of completion of this report 08 October 2002 (08.10.2002)	
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231 Facsimile No. (703)305-3230		Authorized officer <i>A. Husley for</i> Denise Esquivel Telephone No. (703) 305-8231	

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☐ the international application as originally filed.
- ☒ the description:  
pages 1-10 as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the claims:  
pages 11-16 as originally filed  
pages NONE, as amended (together with any statement) under Article 19  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☒ the drawings:  
pages 1-10 as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.
- ☐ the sequence listing part of the description:  
pages NONE as originally filed  
pages NONE, filed with the demand  
pages NONE, filed with the letter of \_\_\_\_\_.

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

**4. ☒ The amendments have resulted in the cancellation of:**

- ☒ the description, pages NONE
- ☐ the claims, Nos. NONE
- ☐ the drawings, sheets/fig NONE

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/US02/04029**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>1-55</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-55</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-55</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Claims 1-55 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest rotating means connected with said housing for rotating said heatsinks and said outer covering.